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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No. 3-08-70090 MEJ
)	
Plaintiff,)	[PROPOSED] ORDER OF DETENTION
)	PENDING TRIAL
v.)	
)	
DEMETRIUS SMITH,)	
)	
Defendant.)	

Defendant Demetrius Smith made his initial appearance in this matter on February 21, 2008. At this initial appearance, the United States moved for detention on grounds of flight risk and danger to the community. A detention hearing was set for February 27 and then was continued, at the request of defendant's counsel, to March 3. Defendant was present at the March 3 detention hearing and was represented by Camellia Baray of Bonjour, Thorman, Baray & Billingsley. Assistant United States Attorney Drew Caputo appeared for the United States.

Pretrial Services submitted a report to the Court and the parties that recommended detention, and a representative of Pretrial Services was present at the detention hearing. The government requested detention, and defendant opposed. Proffers and arguments regarding

1 detention were submitted by the parties at the hearing.

2 Upon consideration of the facts, proffers and arguments presented, the Court finds by
3 clear and convincing evidence that no condition or combination of conditions of release will
4 reasonably assure the safety of the community. Accordingly, the Court concludes that defendant
5 must be detained pending trial in this matter.

6 The present order supplements the Courts findings at the detention hearing and serves as
7 written findings of fact and a statement of reasons as required by 18 U.S.C. § 3142(i)(1).

8 Defendant has a lengthy criminal record. He has committed numerous violations while
9 under supervision, which have resulted in revocations or modifications of probation or parole on
10 eight occasions. His criminal record also contains four felony convictions, including a recent
11 conviction for illegally possessing a firearm. Because there is probable cause to believe that
12 defendant committed the offense charged in the instant criminal complaint, for which a
13 maximum penalty of ten years or more is prescribed by the Controlled Substances Act, 21 U.S.C.
14 § 841(b)(1)(B), it is presumed by statute that no conditions of release can reasonably assure the
15 safety of the community. Defendant has not rebutted that statutory presumption. For these
16 reasons, the Court deems defendant to present a danger to the community that cannot be
17 mitigated adequately by conditions of release.

18 Pursuant to 18 U.S.C. § 3142(i), IT IS ORDERED THAT:

19 1. Defendant be, and hereby is, committed to the custody of the Attorney General for
20 confinement in a corrections facility separate, to the extent practicable, from persons awaiting or
21 serving sentences or being held in custody pending appeal;

22 2. Defendant be afforded reasonable opportunity for private consultation with his
23 counsel; and

24 3. On order of a court of the United States or on request of an attorney for the
25 government, the person in charge of the corrections facility in which defendant is confined shall
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1 deliver defendant to an authorized deputy United States marshal for the purpose of any
2 appearance in connection with a court proceeding.

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4 Dated: _____

5 HONORABLE JOSEPH C. SPERO
6 United States Magistrate Judge
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